

## **A MANAGER'S OVERVIEW**

## **WHAT YOU NEED TO KNOW ABOUT**

## **THE PRIVACY ACT**



**UNITED STATES TRANSPORTATION COMMAND  
COMMAND, CONTROL, COMMUNICATIONS AND COMPUTER SYSTEMS  
DIRECTORATE  
RESOURCES, PLANS AND POLICY DIVISION  
RESOURCES INFORMATION BRANCH  
RESOURCES INFORMATION COMMUNICATIONS AND RECORDS  
MANAGEMENT TEAM**

**PREPARED BY:**  
**UNITED STATES TRANSPORTATION COMMAND**  
**COMMAND, CONTROL, COMMUNICATIONS AND COMPUTER SYSTEMS**  
**DIRECTORATE**  
**RESOURCES, PLANS AND POLICY DIVISION**  
**RESOURCES INFORMATION BRANCH**  
**INFORMATION MANAGEMENT COMMUNICATIONS AND RECORDS**  
**MANAGEMENT TEAM**  
**SCOTT AIR FORCE BASE, ILLINOIS**

## **INTRODUCTION**

**The Privacy Act of 1974 (PA) was enacted to protect individuals from unwarranted invasion of their personal privacy through misuse of records by Federal agencies. Privacy is a personal and fundamental right protected by the Constitution of the United States.**

**The Privacy Act:**

- . Informs people when personal records are collected, maintained, used, or disseminated.**
- . Gives people access to or a copy of their records unless the record meets an approved exemption or the record was created in anticipation of civil action or proceedings.**
- . Requires procedures to ensure that all information is timely, accurate, relevant, and complete.**
- . Permits people to correct or amend their records if the records are factually wrong.**
- . Requires safeguards to prevent misuse or unauthorized disclosure of information.**

**YOUR PRIVACY ACT (PA) OFFICER  
AND FOCAL POINT FOR PROCESSING  
REQUESTS MADE UNDER THIS ACT IS  
CHIEF, RESOURCES INFORMATION COMMUNICATIONS AND RECORDS  
MANAGEMENT TEAM (TCJ6-RII)  
RESOURCES INFORMATION BRANCH  
RESOURCES, PLANS AND POLICY DIVISION  
COMMAND, CONTROL, COMMUNICATIONS AND COMPUTER SYSTEMS  
DIRECTORATE**

## **STATUTE AND REGULATIONS**

**Title 5, United States Code, Section 552a.**

**Public Law 93-579.**

**Department of Defense Directive 5400.11.**

**Department of Defense Regulation 5400.11.**

**Air Force Instruction 33-332.**

**For further research, see publications located in the Privacy Act Manager's Office, Building 1961.**

## **OVERVIEW**

**Personal information is collected directly from the individual whenever possible.**

**A notice must be published in the Federal Register when a system of records is established or revised prior to operating the system.**

**Personnel dealing with records within a system of records are trained in the established rules of conduct for handling personal information.**

**Contractors who operate a system of records for USTRANSCOM or handle personal information must comply with the Privacy Act and are deemed employees of USTRANSCOM for purposes of the Act. Contracts must state this requirement. Failure to do this renders USTRANSCOM, not the contractor, liable.**

## **ACCESS TO AND AMENDMENT OF RECORDS**

**When a person requests records maintained in a system of records:**

- . Verify the records' existence.**
- . Verify the requester's identity.**
- . Allow access unless exempt.**
- . Provide copies when requested with a fee charge after first 100 pages.**

**Individuals may request amendment of records that are not:**

- . Accurate**
- . Timely**
- . Relevant**
- . Complete**
- . Necessary**

**Requests for access to or amendment of records must be acknowledged within 10 workdays.**

**When amending records, notify the requester of the amendment approval and make the appropriate change(s) to the record.**

**When the System Manager recommends denial of access or amendment, forward the case file through TCJ6-RII to the Denial Authority (Commander in Chief and Deputy Commander in Chief) for final determination.**

**Appeals:**

- . Write the Secretary of the Air Force through TCJ6-RII and initial denial authority to appeal a denial decision.**
- . Requester has 60 calendar days after receiving the denial letter to appeal.**

**Statement of Disagreement:**

- . Statement of Disagreement submitted with an appellate decision not to amend records.**
- . System Manager files the statement with the disputed record.**
- . System Manager informs previous and future record recipients of the dispute and provides a copy of the statement.**

## **PRIVACY ACT EXEMPTIONS**

**There are two types of exemptions: General (frees a system of records from most parts of the Privacy Act) and Specific (frees a system of records from only a few parts of the Privacy Act).**

**Approved exemptions exist under title 5, United States Code, Section 552a for:**

- . Certain systems of records used by activities whose principal function is criminal law enforcement (subsection [j][2])**
- . Classified information in any system of records (subsection [k][1])**
- . Law enforcement records (other than those covered by subsection [j][2]). The Air Force must allow an individual access to any record that is used to deny rights, privileges or benefits to which he or she would otherwise be entitled by federal law or for which he or she would otherwise be eligible as a result of the maintenance of the information (unless doing so would reveal a confidential source) (subsection [k][2]).**
- . Statistical records required by law. Data is for statistical use only and may not be used to decide individual's rights, benefits, or entitlements (subsection [k][4]).**
- . Data to determine suitability, eligibility, or qualifications for federal service or contracts or access to classified information if access would reveal a confidential source (subsection [k][5]).**
- . Qualification tests for appointment or promotion in the federal service if access to this information would compromise the objectivity of the tests (subsection [k][6]).**
- . Information, which the Armed Forces uses to evaluate potential for promotion if access to this information would reveal a confidential source (subsection [k][7]).**

## **PRIVACY ACT STATEMENTS**

**A Privacy Act Statement must be given to all persons asked to provide personal information about them, which will go into a system of records or whenever you ask someone for their Social Security Number. The Privacy Act Statement must include:**

- . Legal authority for collecting the information, statute or Executive Order.**
- . Purpose for collecting the information.**
- . Routine uses of the information, why and to whom disclosure will be made outside of the Department of Defense community.**
- . Mandatory or Voluntary. Collection of information is mandatory only when a federal statute, Executive Order, regulation, or other lawful order specifically imposes a duty on the person to provide the information and the individual is subject to a penalty if he or she fails to do so, or the information is mission essential to USTRANSCOM.**
- . Include any consequences of nondisclosure in nonthreatening language.**

**Before requesting a Social Security Number, the individual must be informed of:**

- . The law or authority for collecting the Social Security Number.**
- . How the Social Security Number will be used.**
- . Whether disclosure is mandatory or voluntary.**

**A legal right, benefit, or privilege cannot be denied if someone refuses to provide their Social Security Number unless the law requires disclosure or, for systems operated before 1 January 1975, a law or regulation required disclosure.**

## **RESPONSIBILITIES**

**The Privacy Act Officer, TCJ6-RII, is responsible for:**

- . Administering the Privacy Act program within USTRANSCOM.**
- . Providing training resources.**
- . Reviewing and coordinating on all publications and forms generated in USTRANSCOM for adherence to the Privacy Act.**
- . Staffing denial recommendations.**
- . Reviewing the Privacy Act Program and system notices at regular intervals.**
- . Processing access denials.**
- . Investigating complaints.**

**Systems of Records Managers are responsible for:**

- . Recommending requirements for and content of systems of records.**
- . Managing, safeguarding (protecting records from unauthorized disclosure, alteration or destruction), and evaluating their system(s) of records.**
- . Providing training resources to assure proper operation and maintenance of their system(s).**
- . Preparing system notices and reports for new or changed systems.**
- . Maintaining records of disclosures.**
- . Answering Privacy Act requests.**
- . Evaluating the system annually.**



## **DISCLOSURES TO THIRD PARTIES**

**Information from a System of Records may be disclosed to a third party if the subject of the record asks you to do so or has given prior written consent, unless disclosure would be in accordance with the following:**

- . To Department of Defense (DOD) employees who need the record to perform official duties.**
- . As required by the Freedom of Information Act.**
- . To agencies outside DOD for a routine use as published in the Federal Register.**
- . To the Bureau of the Census for purpose of planning or carrying out a census or survey.**
- . To a recipient for statistical research or reporting pursuant to advanced written assurance that the information is for statistical purposes only, in a format that makes it impossible to identify the real subjects.**
- . To the National archives.**
- . To a Federal, state, or local agency outside DOD for a civil or criminal law enforcement activity.**
- . To an individual or agency under compelling circumstances that affect an individual's health or safety.**
- . To either House of Congress.**
- . To a congressional office acting for a constituent who is the record subject.**
- . To the Comptroller General or authorized representative of the General Accounting Office on business.**
- . To a court of competent jurisdiction. (A Judge must sign the order).**
- . To a consumer reporting agency according to the Federal Claims Collection Act.**
- . To a contractor operating a system of records under a command contract.**

## **PRIVACY ACT PROCESSING FEES**

- . Charge for reproduction costs after first 100 pages.**
- . There is NO search charge.**

## **ACCOUNTING FOR DISCLOSURES**

**The Privacy Act requires an accounting of disclosures outside the Department of Defense (excluding Freedom of Information Act releases) to include:**

- . The date of release.**
- . Type of information released.**
- . Reason for making release.**
- . Name and address of recipient.**

**System Managers use disclosure accounting to inform:**

- . People that their records were disclosed.**
- . Previous recipients of the records, if records are amended.**

## **PRIVACY ACT TERMS**

**Disclosure:** Giving information from a system of records, by any means, to anyone other than the record subject.

**Personal Identifier:** A name, number, or symbol unique to an individual. The most often used personal identifiers are the individual's name and Social Security Number. Other examples are fingerprints or voiceprints.

**Personal Information:** All information about an individual except for matters of public record. For example, medical files and details on a person's private life. An individual's official duties are normally not personal.

**Privacy Act Request:** An oral or written request by an individual about his or her records in a system of records.

**Privacy Act Statement:** a statement furnished to an individual when the individual is requested to provide personal information, regardless of the medium used to collect the information, to go into a system of records. A Privacy Act Statement is also furnished to an individual when asking them for their Social Security Number.

**Record:** Any item, collection, or grouping of information about an individual.

**Routine Use:** The disclosure of a record outside the Department of Defense for a use that is compatible with the purpose for which the information was collected and maintained by the DOD. The routine use must be included in the published system notice for the system of records involved.

**System of Records:** Any group of records from which we retrieve personal information by name or personal identifier. A record in a system of records must contain two elements, a personal identifier and at least one item of personal information.

**System Manager:** The official who initiates a system of records and issues policies and procedures for operating and safeguarding a system.

**System Notice:** The official public notice published in the Federal Register of the existence and content of the system of records.

## **SUMMARY**

**Remember, consult with your Privacy Act Officer if you receive a request or have questions concerning the Privacy Act.**

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Privacy Act Officer  
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